

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

PUBLIC NOTICE

**INVITATION FOR COMMENTS ON LOCAL BANKRUPTCY RULES
4001(a)-1 and 5007-1 (Currently 5077-1)**

Comments are invited on a proposed revision to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Eastern District of Virginia, as follows:

1. A revision to Local Bankruptcy Rule 4001(a)-1; and
2. A revision to Local Bankruptcy Rule 5007-1 (currently LBR 5077-1).

The proposed revision to the Local Bankruptcy Rules is available at the Alexandria, Norfolk, Richmond and Newport News divisions of the Court and may be accessed at the Court's Internet web site at:

<http://www.vaeb.uscourts.gov> under "Local Rules" > "Public Notice".

Comments may be submitted, by mail, to:

Local Rule Change
c/o William C. Redden
U.S. Bankruptcy Court
1100 E. Main Street, Room 310
Richmond, VA 23219-3515

or, by e-mail, at:

Localrules@vaeb.uscourts.gov

Comments will be received by mail or at the Court's web site until 5:00 p.m., Wednesday, December 6, 2006.

Proposed new language is underlined and deleted language is struck through in the attached proposed revision to the Local Bankruptcy Rules.

Dated: November 7, 2006

William C. Redden
Clerk of Court

PROPOSED REVISION

to the

LOCAL BANKRUPTCY RULES

(Version 10/25/06)

**UNITED STATES BANKRUPTCY COURT
for the
EASTERN DISTRICT OF VIRGINIA**



Effective Date: January 15, 2007

RULE 4001(a)-1 RELIEF FROM AUTOMATIC STAY

(A)

(B)

(C) **Response Period:** A separate notice of motion (OF20A) is not required, however, unless provided otherwise by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or order of the Court. The motion for relief from stay shall clearly state and conspicuously provide the following notice:

NOTICE

....

....

....

You will be notified separately ~~by the Clerk~~ of the hearing date on the motion.

(D)

(E) **Filing Requirements:** With the original motion for relief from stay, the proponent shall also file:

(1) the proper filing fee,

~~(2) one copy of the motion~~ [Repealed]

(2) a properly completed proof of service indicating that the movant served the motion for relief from stay upon each party required to receive notice under (F)(1) of this Local Bankruptcy Rule,

~~(4) a stamped, addressed envelope for each party, including the movant, to be served by the Clerk with the notice of hearing.~~ [Repealed]

(F) **Service:**

(1)

(2) **Of Notice of Hearing:** The Clerk shall, within five days after the date the motion was filed, assign a hearing date and serve notice of such hearing upon the parties indicated in the proof of service filed pursuant to paragraph (E)(3) of this Local Bankruptcy Rule. [For Alexandria and Richmond division cases only: The movant must select a preliminary hearing date and time from the schedule provided by the Clerk.]

Comments

4001(a)-1(C) The notice conforms substantially with Official Form 20A so that movant is not required to serve a separate “notice of motion. “The subsection of 11 U.S.C. §1301 under which a party is proceeding must now be clearly stated in the caption of the motion for relief of codebtor stay. [Changes effective 1/1/97]

4001(a)-1(G)(2) This adjustment was made to note the proper 20 days for response instead of 15, in line with 11 U.S.C. § 1301(d). [Change effective 2/1/00.]

4001(a)-1(D) This rule is new. The rule requires the inclusion of relevant information so that interested parties can formulate a position on the motion prior to the preliminary hearing. The requirements of Local Bankruptcy Rule 9022-1, regarding court orders, apply with respect to motions for relief from the automatic stay. [New Rule effective 8/1/03]

4001(a)-1 ~~Subdivision~~ Paragraph (B) of the rule has been amended to effect a technical change in that contested matter (CM) numbers no longer are required. [Change effective 7/1/04.] [Stylistic change effective 1/1/07.]

4001(a)-1 Paragraph (C), at the fourth and final paragraph of the “NOTICE”, is amended by deleting the phrase “by the Clerk” to conform to the procedures to be used in those divisions where available dates may be obtained on-line. Subparagraphs (E)(2) and (E)(4) are repealed in light of the amendments to the Court’s CM/ECF Administrative Procedures at new subparagraph IC7, effective December 1, 2006. Subparagraph (F)(2) is amended by adding a bracketed statement regarding action that a movant must take in Alexandria and Richmond division cases only. [Changes effective 1/15/07.]

RULE ~~5077-1~~ 5007-1 TRANSCRIPTS

(A) ~~**Certification of Record by Reporter**~~ The reporter or operator of a recording device shall certify the original notes of testimony, tape recording, or other original record of the proceeding and file them promptly with the Clerk within twenty four hours of the hearing. ~~Where requests for transcripts are made, the original notes, tape or record shall be filed within thirty days after the request, unless the Court orders otherwise. [Repealed]~~

(B) **Copies of Transcripts Available to Public:** The Clerk shall provide copies of any filed transcript to the public upon request and the payment of prescribed copy fees, unless the Court orders that copies of the transcript not be made or that the transcript be sealed.

(C) **Use of Transcripts by Multiple Parties:** [Repealed]

(D) **Perfecting Record on Appeal:** [Repealed]

(E) **Payment for Transcripts:** The obligation to pay the reporter for any and all transcripts shall be the joint and several personal obligation of the attorney and the party for whose benefit the transcript was obtained to the extent so ordered. Any charges for a transcript shall be payable upon

the completion of the transcript or any segment thereof when a proper bill for same has been submitted by the reporter.

(F) Clerk's Duty to Make Transcripts Remotely Available Electronically; Redaction

(1) Notice of Redaction and Submission of Statement to Court Reporter

Within 10 business days of the filing of an unredacted transcript by the court reporter, a party or witness may file a Notice of Redaction with the Clerk indicating the party's or witness's intention with respect to redaction of personal data identifiers from the electronic transcript of the court hearing. Simultaneously with the Notice of Redaction, the party or witness shall submit a statement to the court reporter indicating where in the transcript personal data identifiers appear and need to be redacted. Such personal data identifiers are Social Security and tax identification numbers; names of minor children; dates of birth; home addresses and financial account numbers. The court reporter shall redact from the electronic transcript the personal identifiers in the statement in the following manner and shall file the redacted transcript in the manner specified by the clerk:

(a) **Social Security Numbers and Tax Identification Numbers:** If an individual's social security number or identification number must be included, only the last four digits of that number shall be included.

(b) **Dates of Birth:** If an individual's date of birth must be included, only the year shall be used.

(c) **Names of Minor Children:** If the involvement of a minor child must be mentioned, only the initials of that child shall be used.

(d) **Homes Address:** If an individual's home address must be included, only the city and state shall be used.

(e) **Financial Account Numbers:** If a financial account number must be included, only the last four digits of that number shall be included.

(2) **Motion for Redactions in Addition to Personal Data Identifiers:** Unless otherwise ordered by the court, within 10 business days of the filing of the unredacted transcript, each party may file a motion requesting redaction of personal information in the transcript in addition to the personal data identifiers set forth in subparagraph (F)(1)(a).

(3) Availability of Transcript

(a) Where neither a timely Notice of Redaction nor a timely motion for additional redactions is filed, the unredacted transcript will be made remotely available electronically by the Clerk within three business days after the expiration of the 10-business-day period for filing a Notice of Redaction or a motion for additional redactions, unless the Court, for good cause related to the application of the Judicial Conference policy on privacy and public access to electronic case files, finds that the transcript should not be made remotely available electronically for up to a period of 60 days.

(b) In the event a redacted transcript is filed, the transcript will be made remotely available electronically by the Clerk within three business after the filing of the redacted transcript.

(c) An unredacted transcript filed with the Clerk may be examined in the Clerk's Office during public office hours after filing.

Comments

5077-1(C)-(D) The Administrative Office of the U.S. Courts has provided guidance to the courts on the statutory and policy requirements for copying official court transcripts of court proceedings filed with the clerk of court. Accordingly, paragraphs (C) and (D) of LBR 5077-1 are repealed. [Change effective 4/1/03.]

5007-1 Former Local Bankruptcy Rule 5077-1 is re-designated as Local Bankruptcy Rule 5007-1. Paragraph (A) is repealed. The first sentence of FRBP 5007(a) adequately addresses the requirement set forth in the deleted sentence and the second sentence is addressed by different means with the reporter. Paragraphs (B) through (E) remain unchanged. Paragraph (F) is new. This paragraph balances the promotion of remote electronic access by the public to transcripts filed with the Clerk with the need to protect personal privacy concerns and other legitimate interests. The procedure set forth therein provides a means by which personal data identifiers and other information may be redacted from a transcript before the transcript is made remotely available electronically to the public. [Re-designated Rule 5007-1, amended Paragraph (A) and new Paragraph (F) effective 1/15/07.]